HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE

AND

HON'BLE SHRI JUSTICE G.V. SEETHAPATHY

WRIT PETITION NO. 1571 OF 2006

BETWEEN

"DHIMSA", a society registered under
A.P. Societies Registration Act, 2001, Paderu,
Visakhapatnam District
rep. by its President K. Krishna Rao & another

.....

Petitioners

And

Government of Andhra Pradesh
rep. by its Principal Secretary,
Industries and Commerce(Mines) Department,
Hyderabad & others.

.....Respondents

::O R D E R ::

Counsel for Petitioner s : Shri A. Ramalingeswara Rao

Counsel for Respondent Nos. 1 to 3 : Government Pleader for Industries & Commerce

Counsel for Respondent Nos.4 and 5 : Shri A. Raja Sekhar Reddy

Counsel for Respondent No.6 : Government Pleader for Environment

Counsel for Respondent No.7 : Shri S.R. Ashok

Dated: 20.06.2006

Per G.S. SINGHVI, CJ

In this petition filed in public interest, the petitioners have prayed for declaring as unconstitutional the following expression appearing in proviso "to an undertaking owned or controlled by the State or Central Government or" to sub-section (5) of Section 11 of Mines and Minerals (Regulation and Development) Act, 1957. They have further prayed for quashing the agreement entered into between the State Government and respondent No.7 for supply of Bauxite mineral through respondent No.6 in an extent of 2,446 hectares in Araku and Sapparla area of Visakhapatnam District.

In the counter-affidavit filed by Shri K. Yadava Reddy, Deputy Secretary to Government, Industries and Commerce Department, the factum of an agreement having been entered into between the State Government and respondent No.7 has not been denied, but it has been averred that mining lease would be granted to respondent No.6 only after taking forest and environment clearances. In the affidavit filed by Ms. Janaki R. Kondapi, Principal Secretary to Government, Environment Forests Science and Technology Department, it has been averred the proposal submitted by Andhra Pradesh Mineral Development Corporation (respondent No.6) under the Forest (Conservation) Act, 1980 (for short 'the Act') for diversion of forest land for mining Bauxite in Anantagiri and Arakuvalley was rejected by the Government of India vide letter dated 03.05.2001. It has been further averred that fresh proposals submitted by respondent No.6 have been forwarded to the Principal Secretary to Government, EFS&T Department vide PCCF Rc.No.34162/2005-F1, dated 22.02.2006.

According to Ms. Janaki R. Kondapi, the fresh proposals are pending consideration before the Central Government.

In view of the stand taken by respondent No.1 and respondent No.2, it is clear that so-called agreement entered into between respondent No.7 and the State Government cannot be implemented till the Central Government grants permission in terms of Section 2(2) of the Act and environment clearance is granted by the competent authorities. Therefore, the writ petition is liable to be disposed of as premature. Ordered accordingly.

However, it is made clear that the petitioners shall be free to file fresh petition as and when the Central Government grants permission in terms of Section 2(2) of the Act and environment clearance is given by the competent authorities.

While disposing of the writ petition in the manner indicated above, we make it clear that till the required permission is obtained by the State Government in terms of Section 2(2) of the Act as also environment clearance is granted by the competent authority, the agreement entered into between respondent No.1 and respondent No.7 shall not be implemented.

G.S. SINGHVI, CJ

G.V. SEETHAPATHY, J

ksld/ks
20.06.2006